

EXHIBIT 14

PR#9833

DERICHSWEILER, MARK

8/8/2008

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 STATE OF OKLAHOMA, et al.,

4 Plaintiff,

5 vs.

CASE NO. 05-CV-00329-GKF-SAJ

6 TYSON FOODS, INC., et al.,

7
8 Defendants.
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13 VIDEOTAPED DEPOSITION OF MARK DERICHSWEILER
14 TAKEN ON BEHALF OF THE DEFENDANTS
ON AUGUST 8, 2008, BEGINNING AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

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24 REPORTED BY: Laura L. Robertson, CSR, RPR
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1 defendants.

2 MS. SOUTHERLAND: Leslie Southerland for
3 Cargill.

4 WHEREUPON

5 MARK DERICHSWEILER,
6 after having been first duly sworn, deposes and says
7 in reply to the questions propounded as follows,
8 to-wit:

9 DIRECT EXAMINATION

10 BY MR. MCDANIEL:

11 Q. Sir, would you state your full name, please.

12 A. Mark Derichsweiler.

13 Q. No middle name?

14 A. No middle name.

15 Q. Okay.

16 A. My parents thought that 13 letter last name
17 was enough.

18 Q. And what is your -- who is your employer and
19 what is your position?

20 A. I work for the Department of Environmental
21 Quality, I'm an engineering manager, supervisor for
22 the watershed planning and stormwater permitting
23 section.

24 Q. All right. You have actually appeared for
25 deposition on two previous occasions where you had

1 would like you to explain briefly again is how your
2 job function with the Department of Environmental
3 Quality relates to the activities, conditions or
4 programs of the state that are relevant to the
5 Illinois River Watershed?

6 A. My section is responsible for compiling the
7 results of water quality monitoring and the
8 assessments of those data compared against Water
9 Quality Standards to identify impaired waters, which
10 are included on the 303(d) list, as it is called for
11 the state, which is included in our biannual, every
12 two year report that we send to EPA.

13 We are also responsible for conducting the
14 TMDLs, Total Maximum Daily Load studies for those
15 impaired waters. We also review activities in
16 surrounding states, including Arkansas, so permits and
17 other things that could be within the watershed as
18 well as in the other surrounding states, those reviews
19 are done by myself.

20 Q. All right. Also during the course of the
21 day there's certain lingo or terms that are common in
22 your profession that I think your average citizen may
23 not be familiar with, so I'm going to ask you to
24 identify or explain what some of those mean.

25 So tell us what the 303(d) list is?

1 **A.** It is called the 303(d) list because it is
2 required by section 303(d) of the Clean Water Act.
3 Every state is required by the act to compile this
4 list in even-numbered years.

5 It is the place where impaired waters are
6 officially identified. Ambient water quality samples,
7 samples that are taken from streams and lakes are
8 analyzed. Those are compared through a set of
9 protocols that in Oklahoma are embodied in rules at
10 the Water Resources Board as to how you go through the
11 mechanics in analyzing those data to compare them
12 against Water Quality Standards to make a decision as
13 to whether the standards are attained or not.

14 In cases where that assessment results in a
15 finding that the standards are not attained, those are
16 the waterbodies that are included on this 303(d) list,
17 and we look at for the longer rivers and streams,
18 those are broken into smaller pieces that we call
19 waterbodies.

20 Those vary in length, and lakes the same
21 thing, those in the larger lakes are broken into
22 pieces for assessment purposes. That list of impaired
23 waters, the 303(d) list, as I said submitted to EPA in
24 even-numbered years. It is required, one of the
25 things that's required to be approved by EPA.

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1 compounds?

2 A. I'm sorry, do I know -- could you say that
3 again?

4 Q. For how long has Lake Tenkiller exhibited
5 elevated levels of phosphorous compounds?

6 A. I'm not sure we know the answer to that
7 question.

8 Q. How far back do you have data that would
9 show -- that shows elevated levels of phosphorous
10 compounds?

11 A. I believe the Clean Lakes study that I
12 mentioned earlier was the first one that I recall
13 identifying elevated levels of phosphorous as a
14 problem in Lake Tenkiller.

15 Q. That's the first you're aware of?

16 A. That's the first one I can recall, the
17 earliest one that I can recall now, yes.

18 Q. Do you have an opinion as to whether or not
19 waters in the Illinois River Watershed have elevated
20 levels of nitrogen or nitrogen compounds?

21 A. Yes.

22 Q. All right. Explain that.

23 A. Again, referring back to the 303(d) list in
24 that process, we have one stream, Sager Creek within
25 the watershed which has nitrate levels that exceed